

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ILLINOIS
NORTHERN DIVISION**

MICHAEL LYON, et al.)	
)	
Plaintiffs,)	
)	
v.)	
)	Case No. 08 C 754
SIGMUND A. EISENSCHENK, et al.,)	
)	The Honorable Amy St. Eve
Defendants.)	

**DEFENDANTS' MOTION TO DISMISS
FOR LACK OF SUBJECT MATTER JURISDICTION**

Defendants Sigmund A. Eisenschenk ("Eisenschenk"), Resource Equities, LLC ("Resource") and Thunder Bay Enterprises, LLC ("Thunder") (collectively, "Defendants"), by their attorneys, Leland W. Hutchinson and Daniel C. Curth, respectfully request an order dismissing Count I of Plaintiffs' Complaint, with prejudice, pursuant to Rule 12(b)(6), Fed. R. Civ. P., as it was untimely filed and, as Count I contains the Complaint's sole basis for invoking federal jurisdiction, dismissing the remainder of the Complaint pursuant to Rule 12(b)(1), Fed. R. Civ. P. Defendants have concurrently filed a Memorandum of Law in support of this Motion, which they hereby incorporate by reference.

Respectfully submitted,

Sigmund Eisenschenk, Resource Equities, LLC and
Thunder Bay Enterprises, LLC

By: /s/ Daniel C. Curth
One of their attorneys

Leland W. Hutchinson (ARDC #1294873)
Daniel C. Curth (ARDC #6229090)
FREEBORN & PETERS LLP
311 South Wacker Drive
Suite 3000
Chicago, IL 60606
(312) 360-6000